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JOHN E. POTTER

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

JEFFREY W. TAM,	)	No. 07-2747 SI
	)	
Plaintiff,	)	<b>DEFENDANT'S FURTHER CASE</b>
	)	<b>MANAGEMENT CONFERENCE</b>
v.	)	<b>STATEMENT</b>
	)	
JOHN E. POTTER,	)	Date: February 1, 2008
	)	Time: 2:30 p.m.
Defendant.	)	Ctrm: 10, 19 <sup>th</sup> Fl.
	)	

Pursuant to Civil Local Rule L.R.16-9, which permits parties to file separate case management statements if one of the parties is not represented by counsel, defendant submits this Further Case Management Statement.<sup>1</sup>

<sup>1</sup> On January 23, 2008 defendant's counsel contacted plaintiff, who is proceeding *pro se*, to discuss the possibility of submitting a joint case management statement. On January 24, 2008, defendant's counsel sent a draft of this statement to plaintiff for his comments. On January 25, 2008, plaintiff notified defendant's counsel that he did not want to file a joint statement with defendant.

1 **AMENDMENT OF PLEADINGS**

2 Since the last Case Management Conference, plaintiff filed an amended complaint, and  
3 defendant filed an answer to the amended complaint.

4 **LEGAL ISSUES**

5 Defendant believes the following legal issues are presently in dispute:

6 (1) Whether plaintiff can establish a prima facie case of discrimination based on race,  
7 national origin, or age.

8 (2) Whether plaintiff can establish a prima facie case of retaliation.

9 (3) Whether defendant can articulate legitimate, non-discriminatory reasons for the  
10 purported adverse employment actions taken.

11 (4) Whether plaintiff can prove that the articulated non-discriminatory reasons are  
12 pretextual.

13 (5) Whether plaintiff can meet his ultimate burden of proving that the alleged adverse  
14 employment actions were illegally based on his race, national origin, age, or participation in  
15 protected activity.

16 (6) Whether plaintiff can state a claim for intimidation under Title VII.

17 (7) Whether plaintiff is entitled to the compensatory relief and damages claimed in the  
18 complaint.

19 (8) Whether plaintiff can state a claim for breach of the Collective Bargaining  
20 Agreement between American Postal Worker Union, AFL-CIO and the United States Postal  
21 Service.

22 (9) Whether plaintiff can prove that defendant harassed plaintiff because of his race,  
23 age, and/or national origin.

24 (10) Whether plaintiff can state a claim for human rights violations.

25 (11) Whether plaintiff can seek an award for punitive damages.

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**DISCOVERY**

Both parties have served initial disclosures and written discovery. Defendant has taken plaintiff's deposition. Defendant anticipates requesting an independent psychological examination of plaintiff. Plaintiff has taken the deposition of Keith Inouye (Manager of Transportation at the Postal Service's Processing & Distribution Center ("P&DC") in Oakland) and Henry Orozco (Supervisor of Transportation at the Oakland P&DC). Plaintiff is scheduled to take the following depositions: Gloria Benevides (Supervisor of Transportation at the Oakland P&DC), Debbie Nails (same), Lucius Paulk (same), Frank Taylor (same), Balvinder Chadha (Manager of Motor Vehicle Operations at the Oakland P&DC), and Toya Jackson.

**SETTLEMENT AND ADR**

The parties have not yet participated in any settlement discussions. After the last Case Management Conference, a settlement conference before Magistrate Judge Bernard Zimmerman was set for January 4, 2008. At the request of counsel assigned to plaintiff as part of the Assisted Settlement Conference Program, the January 4, 2008 settlement conference was continued to February 26, 2008.

Respectfully submitted,

JOSEPH P. RUSSONIELLO  
United States Attorney

Dated: January 25, 2008

/s/  
JENNIFER S WANG  
Assistant United States Attorney

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

**DEFENDANT'S FURTHER CASE MANAGEMENT CONFERENCE STATEMENT**

Jeffrey W. Tam v. John E. Potter  
Case No. CV 07-2747 JCS

to be served this date upon the party in this action by placing a true copy thereof in a sealed envelope, and served as follows:

X **FIRST CLASS MAIL** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

\_\_\_\_\_ **CERTIFIED MAIL (# )** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

\_\_\_\_\_ **ELECTRONIC MAIL**

\_\_\_\_\_ **FEDERAL EXPRESS**

\_\_\_\_\_ **FACSIMILE (FAX)** Telephone No.: See Below

to the party(ies) addressed as follows:

Jeffrey W Tam  
408 Yorkshire Road  
Alameda, CA 94501  
(510) 522-5534  
PRO SE

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 25, 2008 at San Francisco, California.

\_\_\_\_\_  
/s/  
BONNY WONG  
Legal Assistant